

REMARKS/ARGUMENTS

STATUS OF CLAIMS

Claims 1-6, 9-17, 20, 23, 27 and 29-31 are now pending in this application. Claims 7, 8, 18, 19, 21, 22, 24-26 and 28 have been withdrawn from consideration as being directed to non-elected species.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 1, 6, 9-11, 13, 16 and 29 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Iwata et al. (US 2006/0208312).

That is, claims 1, 6, 9-11, 13, 16 and 29 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Iwata et al. (US 2006/0208312). However, in view of the Examiner's comments regarding claim 12 on page 3 of the Office Action, it is believed that the Examiner intended claims 1, 6, 9-13, 16 and 29 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Iwata et al. (US 2006/0208312).

Claims 2, 23 and 30 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Iwata et al. (US 2006/0208312).

Claims 3, 4, 5, 17, 27 and 31 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Iwata et al. (US 2006/0208312).

Claims 14, 15 and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwata et al. (US 2006/0208312).

II. The present application claims priority of Japanese Application 2002-379737 filed in Japan on December 27, 2002 and of Japanese Application 2003-397660 filed in

Japan on November 27, 2003. Certified copies of the priority documents for these two applications were filed with the International Bureau (IB) in International Application PCT/JP2003/016309, and acknowledged by the IB as having been received on January 15, 2004. The present application is a national stage application for PCT/JP2003/016309 submitted under 35 U.S.C. § 371.

MPEP 1893.03(c) II - THE CERTIFIED COPY states:

The requirement in PCT Rule 17 for a certified copy of the foreign priority application is normally fulfilled by applicant providing a certified copy to the receiving Office or to the International Bureau or by applicant requesting the receiving Office to prepare and transmit the priority document to the International Bureau if the receiving Office issued the priority document. Pursuant to PCT Rule 17.1 (a)-(b), applicant must submit the certified copy, or request the receiving Office to prepare and transmit the certified copy, within 16 months from the priority date. Where applicant has complied with PCT Rule 17, the International Bureau will >forward a copy of the certified priority document to each Designated Office that has requested such document with an indication that the priority document was submitted in compliance with the rule and the date the document was received by the International Bureau. This indication may be in the form of either a cover sheet attached to the copy of the priority document or a WIPO stamp on the face of the certified copy. *< The U.S. Patent and Trademark Office, as a Designated Office, will normally request the International Bureau to furnish the copy of the certified priority document upon receipt of applicant's submission under 35 U.S.C. 371 to enter the U.S. national phase.* The copy from the International Bureau is placed in the U.S. national stage file. The copy of the >priority document received from the International Bureau with either of the indications above< is acceptable to establish that applicant has filed a certified copy of the priority document. The examiner should acknowledge in the next Office action that the copy of the certified copy of the foreign priority document has been received in the national stage application from the International Bureau. (Emphasis added)

If the USPTO has not requested the IB to furnish the copies of the certified priority documents, it is respectfully requested that it do so in accordance with MPEP 1893.03(c) II.

III. Iwata et al. (US 2006/0208312) is a Division of Application No. 10/844,474, filed on May 13, 2004, which is subsequent to the priority dates of Japanese Application 2002-379737 (December 27, 2002) and of Japanese Application 2003-397660 (November 27, 2003).

To perfect the claim of priority (see Combined Declaration and Power of Attorney filed with this application), verified translations of Japanese Application 2002-379737 and of Japanese Application 2003-397660 are submitted herewith. Therefore, withdrawal of all the rejections of claims 1-6, 9-17, 20, 23, 27 and 29-31 using Iwata et al. (US 2006/0208312) is respectfully solicited, as Iwata et al. (US 2006/0208312) is not prior art as to the present application (see MPEP § 201.15).

CONCLUSION

In view of the above, applicant(s) believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise (Reg. No. 34,523) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Date: November 13, 2008

Respectfully submitted,

By  H 39 491
Charles Gorenstein
Registration No.: 29,271
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747

Attorney for Applicant

Attachments: Verified English Translations of
JP Application No. 2002-379737 (filed December 22, 2002) and
JP Application No. 2003-397660 (filed November 27, 2003)